

MINUTES
TEXAS BOARD OF PROFESSIONAL ENGINEERS
REGULAR QUARTERLY BOARD MEETING
1917 SOUTH INTERSTATE 35
AUSTIN, TX 78741
AUGUST 29, 2013 – 10:30 AM

Call to Order. Daniel O. Wong, Ph.D., P.E., Presiding Officer, called the Texas Board of Professional Engineers Regular Quarterly Board meeting to order at 10:32 am on August 29, 2013, at the Texas Board of Professional Engineers, 1917 S. Interstate 35, Austin, TX. (Note: All votes are unanimous unless otherwise noted.)

1. Roll Call and Welcome Visitors.

Daniel O. Wong, Ph.D., P.E.	Chair
James "Jim" Greer, P.E.	Vice Chair
Elvira Reyna	Secretary - Public Member (excused absence)
Edward Summers, Ph.D.	Treasurer - Public Member
Carry Ann Baker	Public Member (excused absence)
Lamberto "Bobby" Ballí, P.E.	Member
Sina Nejad, P.E., PEng.	Member
R. Kyle Womack, P.E.	Member
Sockalingam "Sam" Kannappan, P.E.	Member

A quorum was present. Ms. Veena Mohan, Assistant Attorney General, and Ms. Helen Kelley, Assistant Attorney General, were present to provide legal counsel to the Board. Mr. Edmundo Gonzalez, P.E., and Mr. Jose I. Guerra, P.E., Emeritus Board Members, were present.

The following staff members were present:

Lance Kinney, P.E.	Executive Director
Priscilla Pipho, MPA	Deputy Executive Director
David Howell, P.E.	Director of Licensing
C.W. Clark, P.E.	Director of Compliance & Enforcement
Jeff Mutscher	Director of Finance
Suzanne Retiz	HR Specialist
Dorothy Gonzales	Executive Assistant

Visitors. Terry Bilderback, P.E., Texas Society of Professional Engineers (TSPE); Trish Smith, Executive Director, TSPE; Kent O'Brien, P.E., Texas Department of Transportation; John Dillaplain, Illinois PE Board; Jeanne Dillaplain.

2. Public Comment. None.

3. Consent Agenda.

(The following items may be acted upon under Consent Agenda and are marked with an asterisk* on the Regular Quarterly Board Meeting Agenda)

(Motion Required)

- January 25, 2013, Education Advisory Committee (EAC) Minutes
- January 25, 2013, Industry Advisory Committee (IAC) Minutes
- January 25, 2013, Government Advisory Committee (GAC) Minutes
- January 25, 2013, EAC, IAC, and GAC Joint Committee Minutes
- May 22, 2013, Licensing Committee Minutes
- May 23, 2013, Legislative Issues Committee Minutes
- May 23, 2013, Policy Advisory Opinion Committee Minutes
- May 23, 2013, General Issues Committee Minutes
- May 23, 2013, Nominating Committee Minutes
- May 23, 2013, Regular Quarterly Board Meeting Minutes
- Administrative Reports and Outstanding Administrative Penalties and Dismissed Cases, Cease and Desist Order, Agreements, Injunctions/Default Judgments
- Licensing Applications.

It was MOVED/SECONDED (Summers/Ballí) to approve the Consent Agenda as submitted. A vote was taken and the MOTION PASSED.

Discuss and Possibly Approve Board Minutes:

4. *(Consent Agenda) Discuss and possibly approve minutes of the May 23, 2013, Regular Quarterly Board Meeting Minutes

Discuss and Possibly Accept Committee Minutes:

5. *(Consent Agenda) January 25, 2013, Education Advisory Committee (EAC) Minutes
6. *(Consent Agenda) January 25, 2013, Industry Advisory Committee (IAC) Minutes
7. *(Consent Agenda) January 25, 2013, Government Advisory Committee (GAC) Minutes
8. *(Consent Agenda) January 25, 2013, EAC, IAC and GAC Joint Committee Minutes
9. *(Consent Agenda) May 22, 2013, Licensing Committee Minutes
10. *(Consent Agenda) May 23, 2013, Legislative Issues Committee Minutes
11. *(Consent Agenda) May 23, 2013, Policy Advisory Opinion Committee Minutes
12. *(Consent Agenda) May 23, 2013, General Issues Committee Minutes
13. *(Consent Agenda) May 23, 2013, Nominating Committee Minutes

Agenda items 4-13, were approved under Consent Agenda.

Discuss and Possibly Act on the following agenda items (14-29):

14. Board Members' Activity Reports.

- Ballí
- Greer
- Kannappan
- Nejad
- Summers
- Womack
- Wong

Dr. Wong commented that the Board Members' activity reports are included as exhibits for review.

- **Emeritus Members Activity Reports.**
 - Gonzalez
 - Guerra

Dr. Wong commented that the Board Members' activity reports are included as exhibits for review. He invited the Emeritus Members to comment as needed. Mr. Guerra added that he sat in two Informal Conferences; this is a new task given to Emeritus Members by the Board. Dr. Wong thanked the Emeritus Members for their support.

15. Budget.

- FY13 3rd Quarter Budget Report

Mr. Mutscher reviewed the FY13 3rd quarter report which was included as an exhibit with the Board members. No action required.

- **Fiscal Year 2014 Budget.**

Mr. Mutscher reviewed the proposed FY2014 budget which was included as an exhibit with Board members. He also added that the proposed budget included an amendment to show a salary increase for the executive director given by the Board Chair after completion of his performance evaluation. After further discussion, the Board members agreed to adopt the budget as presented as option one, and to include the amendment.

It was MOVED/SECONDED (Summers/Greer) to adopt the FY2014 Budget as amended to show salary increase for the executive director. A vote was taken and the MOTION PASSED.

Discuss and Possibly Act on Issues Regarding Committee Reports or Items on the Committee Agendas:

16. Enforcement Committee.

- **Discuss and possibly act on the following rule proposal.**
- **§139.31-Enforcement Actions for Violations of the Act.**
- **§139.35-Sanctions and Penalties.**

Proposed changes to §139.31 are to allow the Board to issue cease and desist orders and emergency suspensions. Proposed changes to §139.35 are reflected in the suggested sanction and penalty tables of the rules.

It was MOVED/SECONDED (Greer/Nejad) to approve the proposed rule changes as submitted and post in Texas Register for comment. A vote was taken and the MOTION PASSED.

17. General Issues Committee.

- **Discuss and possibly act on the following rule adoption:**
- **§131.35 Employee Training (4)(d).**

Mr. Mutscher reported that this proposed rule change received two comments when posted in the Texas Register. Appropriate responses have been sent to the persons making the comments, and the comments are also addressed in the preamble of the rule. The rule change increases the education reimbursement fee from \$900 to \$1,500.

It was MOVED/SECONDED (Greer/Ballí) to adopt the proposed rule changes to §131.35 Employee Training (4)(d) as submitted. A vote was taken and the MOTION PASSED.

- **Discuss and possibly approve the following rule proposal:**
- **§131.63 Self-Directed Semi-Independent Agency Project Act.**

Mrs. Pipho reported that the proposed rule change is to comply with Texas Government Code Title 4, Subtitle E, Chapter 472, in accordance with the statute change made in the 83rd Legislative Session.

It was MOVED/SECONDED (Greer/Nejad) to approve the proposed rule changes to §131.63 Self-Directed Semi-Independent Agency Project Act as submitted, and post in Texas Register for comment. A vote was taken and the MOTION PASSED.

18. Licensing Committee.

- **Personal Appearances from Licensing Applicants.**

It was MOVED/SECONDED (Ballí/Greer) to Approve Lucas Castillo, Jose Posada, Kiran Punyamathula, Luis Rodriguez, Mark Viato, and Jacob Whisenhunt to take the PE exam; Approve Adrian Key and Stephen Lowe to be licensed in Texas; Approve Ryan Propst and Daniel Sharp to take the PE exam upon completion of the Level I Ethics course; Hold the applications for Matt Marciniac, Igor Pintchouk, and James Howard; and Deny applications for Senthil Arunachalam and Gug Magill. A vote was taken and the MOTION PASSED.

- **Discuss and possibly approve the following rule proposals:**

Mr. Ballí reported on the following rule proposals.

- **Application/Professional Fee Split**
 - **§133.81-Receipt and Processing of Applications by the Board**
 - **§133.87-Final Action on Applications**
 - **§133.97-Issuance of License.**

These proposed rule changes will split the application fee; the process fee will be collected upon receiving the application, and the professional fee will be collected upon successful completion of the PE exam, but before issuing a license.

- **Computer Base Testing (CBT) Implementation**
 - **§133.21-Application for Standard License**
 - **§133.25-Applications from Engineering Educators**
 - **§133.61-Engineering Examinations Required for a License to Practice as a Professional Engineer**
 - **§133.65-Examination on the Fundamentals of Engineering**
 - **§133.69-Waiver of Examinations**
 - **§133.71-Examination for Record Purposes**
 - **§133.73-Examination Results and Analysis**
 - **§133.75-Examination Irregularities**

These proposed rule change will address the new computer based testing process for taking the Fundamentals Exam (FE), effective January 1, 2014.

- **Fingerprinting Implementation**
 - §133.21-Application for Standard License
 - §133.23-Applications from Former Standard License Holders
 - §133.25-Applications from Engineering Educators
 - §133.27-Application for Temporary License for Engineers Currently Licensed Outside the United States
 - §133.89-Processing of Administratively Withdrawn Applications
 - §137.7-License Expiration and Renewal
 - §137.13-Inactive Status

These proposed rule changes will address the mandatory Criminal History Record Check on all Professional Engineers and applicants effective January 1, 2014.

- **Military Spouse Application**
 - §133.81-Receipt and Processing of Applications by the Board

This proposed rule change is to address the mandatory Legislative change that states that applications for military spouses must take priority in the application process. This requirement does not change the requirements for licensure.

It was MOVED/SECONDED (Ballí/Nejad) to approve the rules mentioned in agenda item #19 to be posted in the Texas Register for comment as submitted. A vote was taken and the MOTION PASSED.

19. **Legislative Update.**

Mrs. Pipho reported that a list of all bills that passed during the legislative session that would affect the profession and/or agency were included as an exhibit.

20. **Policy Advisory Opinion Update.**

- **EAOR #34 – Industry Exemption**

Mr. Womack reported that he was appointed as the liaison to work with staff on a response to this request. He and staff met, and discussed solutions. Staff is drafting a response that will be shared with the Policy Advisory Opinion Committee (PAOC) members, and presented at the next scheduled PAOC meeting.

Discuss and Possibly Act on Reports or Items reported by the Executive Director:

21. **Executive Director's Report.**

- **Activity Report.** Mr. Kinney commented that his Activity Report was included, if anyone had any questions or wanted to discuss, he would be glad to share the information.
- **Emeritus Member Contract Renewals-FY2014.** Mr. Kinney reported that Emeritus Members' contract were up for renewal. Each Emeritus Member completed an overall achievement report which was included as an exhibit. The contracts require Board approval.

It was MOVED/SECONDED (Ballí/Greer) to approve the Emeritus Member contracts for Mr. Edmundo Gonzalez, Jr., P.E.; Mr. Jose I. Guerra, P.E.; and Mr. Govind Nadkarni, P.E. A vote was taken and the MOTION PASSED.

- **Report on May 31, 2013, Education, Industry, and Government Advisory Committee Meetings.** Mr. Kinney reported that all three advisory committee members met in May 2013. The committees were given an update of legislative changes affecting the profession, discussed proposed rule changes due to the 83rd Legislative Session; upcoming Computer Based Testing FE exam, and Strategic Plan.
- **NCEES.**
 - **CBT.** Mr. Kinney reported that the FE exam will be offered via computer beginning January 2014.

- **2013 Engineering Award Winners.** Mr. Kinney reported that the University of Texas at El Paso, College of Engineering is one of the recipients of the NCEES 2013 Engineering Award.
- **Report Annual Meeting-San Antonio.** Mr. Kinney reported that the NCEES Annual meeting in San Antonio went well. Several of staff had the opportunity to participate in some of the workshops. He thanked everyone that attended the meeting. He also announced that Mr. Sam Kannappan, P.E., Board Member, has been elected as the Southern Zone Secretary/Treasurer.
- **Journey Toward Excellence.** Mr. Kinney reported that staff is now working on the next phase of the Journey Toward Excellence. The new strategic plan is being developed, and teams will be established.
- **Outreach.** Mr. Kinney reported that the Outreach Program was very successful this year. The webinars have been a hit. He thanked all the presenters for their time and effort in making the presentations. He added that the next webinar is scheduled in September, and kudos from attendees are included for Board members to review.
 - Upcoming Webinar September 12, 2013
 - Kudos

Discuss and Possibly Act on Enforcement/Disciplinary Matters:

22. *(Consent Agenda) Administrative Reports, Outstanding Administrative Penalties Dismissed Cases, Cease and Desist Order, Agreements, Injunctions/Default Judgments.

This agenda item was approved under Consent Agenda, see agenda item #3.

23. Agreed Board Order.

1. D-34077 (Guerra)
2. D-33332 (Wong)
3. Curtis R. Dumas, P.E., D-33703 (Summers)
4. C. Scott Parker, P.E., D-33660 (Guerra)
5. Ben L. Thomas, P.E., D-33490 (Nejad)

It was MOVED/SECONDED (Nejad/Greer) to approve the Board Orders as submitted.
Motion was withdrawn.

It was MOVED/SECONDED (Ballí/Kannappan) to approve the Board Orders as submitted. Dr. Wong recused himself from voting on any action on D-33332; Dr. Summers recused himself from any action taken on Curtis R. Dumas, P.E., D-33703; Mr. Nejad recused himself from voting on any action taken on Ben L. Thomas, P.E., D-33490. A vote was taken and the MOTION PASSED.

24. Consent Orders.

SOAH Result

(None)

Informal Reprimands (In accordance with Board Rule 139.31(b) individual names are not listed)

6. D-33451
7. D-34420
8. D-34209

Non-Practice Violations

9. Lawrence Fischer, P.E. - D-34594, Order of the Board
10. Chander P. Nangia, P.E. – D-34182, Order of the Board
11. Larry W. Brast, P.E. - D-34613, Final Board Order
12. Christopher Castillo, P.E. – D-34686, Final Board Order

Practice Violations

13. Thomas W. Keiss, P.E., D-33871
14. Stephen P. Maslan, P.E., D-34118
15. Michael A. Robinson, P.E., D-34198
16. Steven E. Williams, P.E., D-34248

Sanctions Against Non-License Holders

(None)

Firm Registrations/Sole Proprietorship Sanctions

(None)

It was MOVED/SECONDED (Ballí/Nejad) to approve the Consent Orders as submitted. A vote was taken and the MOTION PASSED.

25. Discuss, possibly act on the following settlement proposal.

- **Raghunath Dass, P.E., D-31480.**

This agenda item may be considered under executive session as authorized under Government Code §551.071. Consultation with Attorney

Ms. Mohan gave the board members a brief summary regarding the violation by Mr. Dass, and the suggested suspension and reprimand by the Administrative Law Judge (ALJ), and the Board's approval of the ALJ proposal. Mr. Dass submitted a settlement proposal for the Board to consider (included as an exhibit). Ms. Mohan commented that the proposal will be discussed in closed session, and recommended that Mr. C.W. Clark, P.E., Director of Compliance & Enforcement, be included in the closed session discussion.

Dr. Daniel Wong, P.E., Board Chair informed everyone that the Texas Board of Professional Engineers will go into closed session at 12:03 pm pursuant to the Texas Open Meeting Act on agenda item #25 to receive legal advice from its attorney under section §551.071 of the Act to consider settlement offer.

Dr. Wong reconvened the closed session at 12:10 pm, no action was taken during the closed session.

It was MOVED/SECONDED (Greer/Ballí) to reject the settlement offer as proposed by Mr. Raghunath Dass, P.E. A vote was taken and the MOTION PASSED.

Discuss and Possibly Act on Licensing Applications requiring board ruling:

26. *(Consent Agenda) Licensing Applications.

Vote or Reconfirm Votes Pursuant to Board Rule §133.87:

Approved for Exams
Approved for Licensure
Exams Not Approved
Firms Approved
Not Approved for Licensure
Auto Not Approved for Licensure
Waivers – Both
Waivers – FE
Waivers—PE

This agenda item was approved under Consent Agenda, see agenda item #3.

Discuss and Possibly Act on Other Matters

27. Thank the Executive Director, Lance Kinney for his exemplary service to the Board and NCEES.

Dr. Wong thanked Mr. Kinney for a great job he has done with the Board, and for representing not only the Board but the state of Texas at NCEES events and committees, for his accomplishment of receiving the Distinguished Service Award from the Southern Zone and Nationally. Dr. Wong presented Mr. Kinney with a resolution from the State of Texas House of Representative, State of Texas Senate, and a congratulatory letter from Governor Perry.

28. Issues from Board members for future meetings.

None.

Adjourn.

It was MOVED/SECONDED (Ballí/Summers) to adjourn the meeting at 12:10 pm

Date Board approved as submitted:

November 21, 2013